

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

June 19, 2008

No. 07-41023
Conference Calendar

Charles R. Fulbruge III
Clerk

VICTOR C FOURSTAR, JR

Petitioner-Appellant

v.

T C OUTLAW, Warden

Respondent-Appellee

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:07-CV-11

Before JONES, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:*

Victor C. Fourstar, Jr., federal prisoner # 07418-046, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition challenging the 188-month sentence he received following his 2002 conviction for aggravated sexual abuse, in violation of 18 U.S.C. § 2241. He renews his claim that his sentence was improperly enhanced by his 1992 Montana guilty-plea conviction for sexual intercourse without consent. He also argues, for the first time, that counsel was ineffective in failing to challenge that conviction at the federal sentencing

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

hearing. This new argument will not be considered. See *Leverette v. Louisville Ladder Co.*, 183 F.3d 339, 342 (5th Cir. 1999).

Even if his brief is liberally construed, Fourstar makes no argument that the district court erred in determining that he did not meet the criteria for raising his claims in this § 2241 petition pursuant to the savings clause of 28 U.S.C. § 2255(e). He has thus abandoned the only issue on appeal by failing to brief it. See *Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir. 1993).

The appeal is without arguable merit, see *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983), and is dismissed as frivolous. See 5TH CIR. R. 42.2.

APPEAL DISMISSED.